

# TENNESSEE REGULATORY AUTHORITY

Sara Kyle, Chairman  
Deborah Taylor Tate, Director  
Pat Miller, Director  
Ron Jones, Director



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## MEMORANDUM

TN REGULATORY AUTHORITY  
DOCKET ROOM

TO: Chairman Sara Kyle  
Director Deborah Taylor Tate  
Director Pat Miller

FROM: Eddie Roberson *ER*  
Chief, Consumer Services Division

Randall Gilliam, Counsel *RG*

DATE: November 8, 2002

SUBJECT: Buyers United, Inc. settlement (Docket No. 02-01214)

On March 26, 2002, the Tennessee Regulatory Authority ("TRA" or "Authority") revoked the certificate of Buyers United, Inc. ("Buyers United") for failure to provide the TRA with the statutory mandated security bond or letter of credit. Buyers United, nevertheless, continued, in violation of a TRA order, to provide telecommunications services in Tennessee. Qwest Communications informed Buyers United that it would cease providing the company network services on October 4, 2002 unless it obtained the proper authority from the TRA to operate in the state. Qwest Communications provides Buyers United with network services in Tennessee.

Faced with the immediate threat of disconnection of its approximately 3,709 Tennessee customers by Qwest Communications, Buyers United filed a petition with the Authority requesting recertification on September 30, 2002. The Authority acted on the petition at an emergency conference on October 3, 2002. The Authority panel of Chairman Sara Kyle, Directors Deborah Taylor Tate and Pat Miller granted Buyers United a temporary certificate until December 9, 2002.

Since the time the Authority granted the company a temporary certificate, the Staff has been working with Buyers United to ensure that the company is compliant and that all violations are addressed. The attached settlement addresses the violations. The terms of the settlement require Buyers United to pay the Authority \$9,450 divided in quarterly installments over the next year as well as comply with all provisions of Tennessee law and Authority rules. Counsel for Buyers United will participate telephonically at the conference when the settlement is considered. Staff requests that this settlement be considered at the November 18 conference.

cc: Director Ron Jones  
Jonathan Marashlian, counsel for Buyers United  
Richard Collier

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## BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:	)	
	)	
BUYERS UNITED	)	DOCKET NO. 02-01214
INTERNATIONAL, INC.	)	
ALLEGED VIOLATIONS OF	)	
TENN. CODE ANN. § 64-4-125(j), § 65-4-201	)	
AND TENN. COMP. R. & REGS. 1220-4-2-.57(2)	)	

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SETTLEMENT AGREEMENT

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This Settlement Agreement, which has been voluntarily entered into between the Consumer Services Division ("CSD") of the Tennessee Regulatory Authority ("TRA" or "Authority") and Buyers United International, Inc. ("Buyers United" or the "Company"), a Utah corporation, resolves all issues presented by Buyers United's alleged noncompliance with Tenn. Code Ann. § 65-4-125 (i.e., failure to provide a surety bond) and Tenn. Code Ann § 65-4-201 (i.e., operating without a certificate of public convenience and necessity) through the date of the execution of this Settlement Agreement. This Settlement Agreement pertains to any and all causes of action arising up to and including the date of approval of this Settlement which allege that Buyers United violated Tenn. Code Ann. § 65-4-125(j); Tenn. Code Ann. § 65-4-201 and its concomitant regulation, Tenn. Comp. R. & Regs. 1220-4-2-.57(2) ("alleged violations"). This Settlement Agreement is subject to the approval of the Directors of the TRA. Upon approval by the Directors of the TRA, and upon full payment of the Settlement Payment in accordance with Section 1 hereof and compliance with the terms of this Settlement Agreement, this Settlement Agreement shall be deemed a full settlement, release, accord and satisfaction of all liability for the alleged violations.

Tenn. Code Ann. § 65-4-125(j), requires telephone service providers, except owners or operators of public telephone service who pay annual inspection and supervision fees pursuant to

Tenn. Code Ann. § 65-4-301(b) or telecommunications service providers that own and operate equipment facilities in Tennessee with a value of more than five million dollars, to file with the Authority a surety bond or letter of credit in the amount of twenty thousand dollars (\$20,000). On March 26, 2002 the Authority entered an order revoking the Company's authority to operate in Tennessee for failure to comply with Tennessee Code Annotated § 65-4-125. Tennessee Code Annotated § 65-4-201(b), prohibits individuals and entities from offering or providing telecommunications services without first obtaining from the Authority a certificate of convenience and necessity. Authority Rule 1220-4-2-.57(2) states Resellers shall not provide intrastate telecommunications services in Tennessee without a certificate of convenience and necessity awarded by the Authority. Tennessee Code Annotated § 65-4-120 authorizes the TRA to impose a civil penalty of fifty dollars (\$50) for each day of violation upon telecommunications service providers that have violated Authority rules or orders.

On September 30, 2002, the Company filed a Petition seeking a temporary certificate to operate in Tennessee pending Authority approval of a formal application so as prevent disconnection of approximately 3,700 access lines and more than 2,000 customers while Buyers United took the steps necessary to comply with Tennessee law and Authority rules. At an emergency Authority conference held on October 3, 2002 the Authority granted Buyers United a temporary certificate which expires on December 9, 2002.

In negotiating this Settlement Agreement, CSD relied upon the factors stated in Tenn. Code Ann. § 65-4-116(b), including the Company's size, financial status, good faith, and the gravity of the violations.

In an effort to resolve all alleged violations noted in this Settlement Agreement CSD and Buyers United agree to settle this matter based upon the following acknowledgements and terms, subject to approval by the Directors of the TRA:

1. Buyers United agrees to pay the TRA nine thousand four hundred fifty dollars (\$9,450.00) (the "Settlement Payment") over a period of one (1) year in settlement of all alleged violations included in this Settlement Agreement. Buyers United shall remit the first payment in the amount of

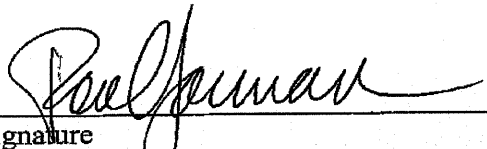
two thousand three hundred sixty-two dollars and fifty cents (\$2,362.50) to the Office of the Chairman of the TRA no later than thirty days after TRA approval of this Settlement Agreement. Thereafter, Buyers United shall pay to the TRA the sum of two thousand three hundred sixty-two dollars and fifty cents (\$2,362.50) in quarterly payments which shall be remitted to the TRA no later than the first business day of the last month in each quarter for the year beginning with a payment on March 30, 2003, followed by a payment on June 30, 2003 and ending with a payment on December 31, 2003. Upon completion of the payments amounting to nine thousand four hundred fifty (\$9,450.00) and compliance with the other terms and conditions of this Settlement Agreement, Buyers United shall be excused from further proceedings in this matter.

2. In the event that Buyers United merges or consolidates with or transfers its assets to another firm, corporation or entity, Buyers United or its successor shall remain responsible for fully complying with the terms and conditions of the Settlement Agreement. Buyers United shall so notify the CSD no later than ten (10) days prior to the completion of such transaction.
3. Buyers United agrees to comply with all provisions of the Tennessee laws and Authority rules requiring a certificate of public convenience and necessity and the filing of a surety bond or letter of credit with the Authority.
4. Buyers United agrees that a company representative will attend the Authority Conference during which the Directors consider this Settlement Agreement. Such attendance may be by telephone.
5. In the event that Buyers United fails to comply with the terms and conditions of this Settlement Agreement, the Authority reserves the right to re-open this docket.

Eddie Roberson M.K.

Eddie Roberson  
Chief, Consumer Services Division  
Tennessee Regulatory Authority

11/08/02  
Date

  
Signature

Paul Jarman  
Print Name

COO  
Print Title

10/31/02  
Date